# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/725,859 | 12/01/2003 | Philip Borghesani | MWS-093 | 2817 |

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| EXAMINER |
|---|
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| | | **Application No.** | **Applicant(s)** |
|---|---|---|---|
| **Office Action Summary** | | 10/725,859 | BORGHESANI ET AL. |
| | | **Examiner** | **Art Unit** | |
| | | VAN H. NGUYEN | 2194 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *04 June 2007*.

2a)☐ This action is **FINAL**.     2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-35* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All    b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION

1.      This communication is responsive to the amendment filed 06/04/2007.

Claims 1-35 are pending in this application.

Applicant has amended claims 6, 18, 23, and 32 to overcome the objections. The prior

objections are withdrawn.

Applicant's Terminal Disclaimer (filed 06/04/2007) has been received, and the prior

double patenting rejections are withdrawn.

## Claim Rejections - 35 USC § 101

2.      35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11 and 27-35 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. Under a broadest reasonable interpretation, the

method claim 1 is unpatentable under section 101 because (i) it does not qualify as a

"process" under section 101, as that term has been interpreted by case law, (ii) it seeks to

patent an abstract idea, and (iii) the "useful, concrete, and tangible result" test does not

apply here, but the claim nevertheless does not meet that test. The method claim 1 differs from traditional process claims in several respects. For example, the claim does not recite any particular way of implementing the steps, nor does it require any machine or apparatus to perform the steps. In addition, the method claim does not recite any electrical, chemical, or mechanical acts or results, which are typical in traditional process claims. Finally, the claim does not call for any physical transformation of an article to a different state or thing. While claim 1 performs *processing, creating,* and *storing*, it does not require any machine or apparatus to perform the steps. Because the claim is completely untethered from any sort of structure or physical step, it is directed to a disembodied concept. In other words, the claim is nothing but a disembodied abstract idea until it is instantiated in some physical way so as to be limited to a practical application of the idea. For example, claim 15 does not specify whether the entity performing the steps of *processing, creating,* and *storing* is a computer, a human, or something else. Accordingly, the claim is so broad that it is directed to the abstract idea itself, rather than a practical implementation of the concept.

Claims 22-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims recite a *"system"* in the preamble only, the body of the claims merely contains software components. Therefore, the claims are software per se and do not fall within at least one of the four enumerated categories of patentable subject matter recited in section 101.

Claims which are broad enough to read on statutory subject matter or on non-statutory

subject matter are considered non-statutory. Cf. In re Lintner, 458 F.2d 1013, 1015, 173

USPQ 560, 562 (CCPA 1972) ("Claims which are broad enough to read on obvious

subject matter are unpatentable even though they also read on nonobvious subject

matter.") During prosecution, applicant can amend to limit the claims to statutory subject

matter.

## Claim Rejections - 35 USC § 102

3.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-17, 19-22, 24-31, and 33-35 are rejected under 35 U.S.C. 102(b) as being

anticipated by **Auslander et al.** (US 5995100).

## As to claim 1:

Auslander discloses in an electronic device, a method of accessing a library function in a

shared library from a dynamic environment *[see the Abstract; Figs. 1-7 and the*

*discussion beginning at col.3, line 17]*, comprising the steps of:

processing a header file of the library function to extract information for creating

an interface to the library function; and creating and storing the interface to the library

function in the shared library *[see col.1, line 54-col.2, line 5; col.2, lines 43 -col.4, line*

*26].*

**As to claim 2:**

Auslander discloses automatically defining parameters for the interface to the library

function based on the header file *[see col.1, lines 54-67 and the discussion beginning at*

*col.2, line 43].*

**As to claim 3:**

Auslander discloses creating at least one data structure having selected parameters for

interfacing with the library function *[see col.1, lines 54-67 and the discussion beginning*

*at col.2, line 43].*

**As to claim 4:**

Auslander discloses automatically ensuring inputs to the interface to the library function

are in the form of selected data types based on the header file *[see col.1, lines 54-67 and*

*the discussion beginning at col.2, line 43].*

**As to claim 5:**

Auslander discloses the interface converting data types to the selected data types for the

library function *[see col.1, lines 54-67 and the discussion beginning at col.2, line 43].*

**As to claim 7:**

Auslander discloses a C header file *[see col.1, lines 54-67 and the discussion beginning at col.2, line 43].*

**As to claim 8:**

Auslander discloses saving the interface to the library function in the shared library in the dynamic environment in an executable form for subsequent use *[see col.1, lines 54-67 and the discussion beginning at col.2, line 43].*

**As to claim 9:**

Auslander discloses receiving a command to call the library function *[see col.1, lines 54-67 and the discussion beginning at col.2, line 43].*

**As to claim 10:**

Auslander discloses executing the library function using the interface from the shared library *[see col.1, lines 54-67 and the discussion beginning at col.2, line 43].*

**As to claim 11:**

Auslander discloses at least one of a text-based modeling application) and a graphical-based modeling application *[see col.1, lines 54-67 and the discussion beginning at col.2, line 43].*

**As to claim 12:**

The rejection of claim 1 above is incorporated herein in full. Additionally, Auslander teaches loading the library function from the shared library and executing the library function using the interface from the shared library *[see col.1, lines 54-67 and the discussion beginning at col.2, line 43]*.

**As to claim 13:**

Note the discussion of claim 1 for rejection.

**As to claims 14-17:**

Note the discussions of claims 2-5, respectively, for rejections.

**As to claims 19-21:**

Note the discussions of claims 7, 8, and 11, respectively, for rejections.

**As to claim 22:**

The rejection of claim 1 above is incorporated herein in full. Additionally, Auslander teaches an application providing a dynamic environment *[see the Abstract and col.1, lines 54-67]*.

### As to claims 24-26:

Note the discussions of claims 7, 8, and 11, respectively, for rejections.

### As to claims 27-31 and 33-35:

Note the discussions of claims 1-5, 7, 8, and 11, respectively, for rejections.

## Claim Rejections - 35 USC § 103

4.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a person
having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the
examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions
covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37
CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later
invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35
U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 6, 18, 23, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over

**Auslander et al.** in view of **Engelschall** "Apache 1.3 Dynamic Shared Object (DSO)

Support", pp.1-8.

**As to claims 6, 18, 23, and 32:**

Auslander discloses a DLL file *[see the Abstract and col.1, lines 54-67]*.

Auslander, however, does not specifically teach a .so file.

Engelschall teaches .so file *(libc.so) [page 2]*.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Auslander with Engelschall because Engelschall' teaching would have allowed a graphical program to be exported to a shared library, thereby enabling any program able to access the shared library to be able to access the graphical program through the shared library.

## Response to Arguments

5.      Applicant's arguments filed on 06/04/2007 have been considered but are moot in view of the new ground(s) of rejection.

## Conclusion

6.      The prior art made of record, listed on PTO 892 provided to Applicant is considered to have relevancy to the claimed invention. Applicant should review each identified

reference carefully before responding to this office action to properly advance the case in

light of the prior art.

## Contact Information

Any inquiry or a general nature or relating to the status of this application should
be directed to the TC 2100 Group receptionist: (571) 272-2100.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to VAN H. NGUYEN whose telephone number is (571)
272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM
6:00PM. The examiner can also be reached on alternative Friday. If attempts to reach the
examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM
THOMSON can be reached at (571) 272-3718.

The fax phone number for the organization where this application or
proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system.  Status information for
published applications may be obtained from either Private PAIR or Public PAIR.  Status
information for unpublished applications is available through Private PAIR only.  For
more information about the PAIR system, see http://pair-direct.uspto.gov. Should you
have questions on access to the Private PAIR system, contact the Electronic Business
Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**
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P O Box 1450
Alexandria, VA 22313-1450

**VAN H. NGUYEN**
**PRIMARY EXAMINER**